

2008 Annual Election Period Marketing Surveillance

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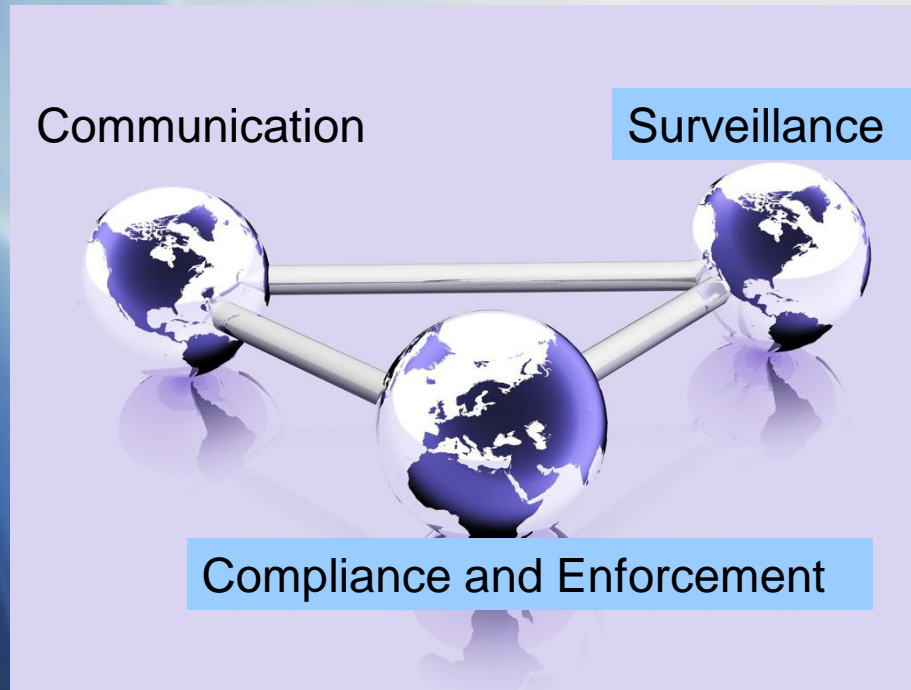
CMS' Commitment to Transparency and Beneficiary Protection

- September 15, 2008 CMS Press Release
 - “The regulations give insurers bright-line guidance on what types of marketing activities are acceptable and what types are not acceptable. Medicare beneficiaries can be assured that we will monitor marketing activities and move aggressively with enforcement measures or other actions if these rules are violated.”
 - *CMS Acting Administrator Kerry Weems*

2008 AEP Marketing Surveillance Strategy

- The new MIPAA marketing regulatory provisions prevent agents and brokers from engaging in sales and marketing activities that may pressure beneficiaries to make plan choices for reasons other than those that best meet their health care needs.
- Comprehensive surveillance strategy established to detect, prevent, and respond to incidents of marketing violations.

2008 AEP Marketing Surveillance Strategy



Surveillance



Horizontal Surveillance Strategy

- Casts a strategically targeted net to capture information from
 - All MA and PDP Organizations; and
 - All States and territories.
- Utilizing disproportionate sampling for high-risk beneficiaries and high-risk geographic regions.



Horizontal Secret Shopping: AEP Outcomes

- Overall, over **1000** shops conducted.
- The most common validated deficiencies discovered during horizontal secret shopping were:
 - Misunderstanding and/or misuse of the scope of appointment form (e.g., gift cards provided to attendees only if a scope of appointment form was completed).
 - Events held by organizations offering PFFS where the presenter did not clearly read the required disclaimer that “enrollees can see any provider, who agrees to accept the plans terms and conditions of payment”; and
 - Representatives did not provide clear instructions on the drug coverage benefit offered by that plan.

Horizontal Secret Shopping: AEP Outcomes

- 11 organizations found with at least one ‘serious’ marketing violation
 - These 11 organizations received warning letters from CMS
 - Organizations asked to implement proactive measures (targeted training, disciplinary action of agent/brokers) to ensure compliance
- Focused, vertical surveillance initiatives initiated

Clipping Service

- Clipping service initiated in November 2009 served two primary purposes:
 - Assess the compliance of marketing **content**
 - Assess whether organizations were reporting marketing events to CMS
- Over 1300 English and Spanish ads were reviewed
- At the start of the AEP, clipping focused on the following markets:
 - Miami, Greater New York, St. Louis, South Texas, Arizona, and Virginia (higher reported historic rates of marketing abuse)
 - Expanded to all U.S. markets on November 26, 2008

Clipping Service: AEP Outcomes

- One organization non-compliant due to significant marketing content issues
- Five organizations ran advertisements that contained a reference to marketing events that were not reported to CMS.
- These organizations received warning letters for these violations
- Generally, review of marketing content in 2008 AEP did not uncover many instances of gross misrepresentation or serious marketing deficiencies.

Secret Shopping of Customer Service Call Centers

- Over 5000 calls made to 213 MA and PDP Organizations
- Goal: Assess the accuracy and understandability of CSR information in the following areas:
 - Basic Plan Information
 - Enrollment requirements
 - How MA plans cover services
 - Health screening questions
 - Member costs
 - Disenrollment rules
 - Marketing misrepresentation or pressure tactics

Call Center Performance: AEP Outcomes

- CMS compared performance of all parent organizations (average score per survey)
- CMS deemed 23 organizations as outliers (scores were twice the national average or higher)
 - These organizations received compliance letters
- Areas identified as the lowest scoring areas across all parent organizations included:
 - Clearly and understandably explaining that a MA plan pays instead of Medicare
 - Clearly explaining Parts A and B entitlement requirements
 - Providing clear instructions around the disenrollment rules
 - Providing clear instructions about the plan's monthly premium
 - Providing clear instructions about the plan's co-pay and co-insurance amts.

Complaints Performance

- CMS used complaints data to assess organizational performance during the AEP
- Specifically, the Marketing Misrepresentation Complaints category was used.
- CMS examined this data in two ways:
 - Total complaints rate performance
 - Total complaints rate normalized for change in enrollment
 - Marketing misrepresentation complaints tend to come from newly enrolled beneficiaries

Complaints Performance: AEP Outcomes

- 13 organizations identified as outliers in overall MM complaints rate performance (Jan.-November 2008)
 - These organizations targeted for additional surveillance, including vertical secret shopping
- 14 organizations identified as outliers in MM complaints rates normalized against change in enrollment during AEP.
 - Requirement for these organizations to submit recurring reports on investigation and response efforts into agent/broker complaints.

Marketing Misrepresentation Reporting Outcomes

- Organizations provided feedback on their investigation and action on over 2600 MM complaints.
 - Organizations took action in 288 of those complaints (included retraining, counseling, or watch list). This equates to only an 11% action rate.
 - Range from 2.4% - 44% action rate.
 - Organizations indicated that about 24% of the cases were unsubstantiated or inconclusive

Vertical Surveillance Strategy

- Contracted auditors and CMS staff conduct *targeted* surveillance activities.
- Fewer activities, but more in-depth analyses.
- Surveillance of high-risk MA and PDPs identified as outliers through horizontal surveillance activities.



Vertical Secret Shopping

- Focused resources on organizations found as outliers during horizontal surveillance (34 parent organizations)
- Conducted by trained Medicare experts
- Over 500 vertical secret shops were conducted
 - 219 during the AEP
 - 332 during the OEP

Vertical Secret Shopping: AEP Outcomes

- CMS identified 84 events (belonging to 20 parent organizations with at least one deficiency).
 - Non-compliant organizations received a warning letter
 - 52% of events complied fully with CMS requirements
 - 14 organizations were targeted for vertical shopping had no marketing deficiencies.
- Most common deficiencies discovered:
 - Misuse of scope of appt. form (CMS clarified policy on 2/11/09)
 - Failure to mention that the plan had a provider network
 - Failure to provide the PFFS disclaimer
 - Marketing material issued did not have CMS approval number
 - Lack of no-obligation disclaimer related to prize giveaways
 - Inappropriate statements about competing plans
 - Inaccurate representation of details regarding the Part D coverage gap

Additional Vertical Surveillance Activities

- CMS expanded vertical surveillance initiatives during the OEP
 - Additional vertical shopping
 - In-home secret shopping
 - Review of recorded enrollment calls

Compliance



Compliance Strategy

- Ensures that the information collected through surveillance activities leads to timely and effective compliance and enforcement actions.
- Strong partnership and information sharing between various CMS components and contractors.
 - *Timely* escalation of serious deficiencies from surveillance activities for immediate follow-up.
 - Included additional surveillance or result in immediate compliance action.

Overall Compliance Results

- During the AEP, CMS observed a lower incidence of marketing violations than in prior years, particularly those related to gross misrepresentation or severe marketing abuses.
- CMS issued a total of 40 compliance letters (warning and outlier letters) during the AEP
- In total, deficiencies were isolated to ~19% of parent organizations examined.

Regional Office Coordination



Regional Office Perspective on Surveillance

- Strengthening Partnerships at the Local Levels
 - DOI
 - SHIPs
- RO Led Secret Shopping Initiative
- Account Management Training
- Casework Analysis
 - Marketing Misrepresentation
 - Enrollment / Disenrollment Issues

Surveillance Best Practices

Respond

Recognize



Report

Surveillance Best Practices

Recognize that surveillance starts with the CEO and is everyone's responsibility in the organization.

- Implement your own surveillance program
- Training is Key for ALL staff
- Dedicating adequate and appropriate staff is not an option, it is crucial
- Continuous process improvement is important. Not doing so may lead to:
 - Civil monetary penalties
 - Marketing and / or enrollment sanctions
 - Contract termination

Surveillance Best Practices

Respond to inquiries in a timely, efficient and effective manner

- Inquiries can come from a variety of sources and require timely responses
 - CMS
 - DOI
 - SHIPs
 - Congressional Offices
- Conduct a thorough investigation and respond with the complete details of the occurrence
- Determine the root cause of the incident and succinctly address the problem
- Explain to the requestor how this incident will not occur again in the future

Surveillance Best Practices

Report self identified issues to CMS before CMS discovers the issue

- Self disclose in a timely manner so CMS can assist with solving the issue before it becomes a significant problem
- Share findings with the appropriate regulatory entities
 - DOI
 - Congressional Offices
 - Others
- Inform the regulatory entities how you fixed the issue and demonstrate how it will not occur again in the future

Questions?



